

INITIAL STATEMENT OF REASONS

Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are Necessary.

Problem this Rulemaking is Intended to Address:

On August 26, 2022, Governor Gavin Newsom signed Senate Bill (SB) 1126 into law, changing the CalSavers Program eligibility for employers to include businesses with as few as one employee. This bill also made other changes to eligibility, including a carve-out for sole proprietors and establishing a new deadline for those newly eligible employers to register for the Program.

These regulations amendments are necessary to conform the program regulations with the updated statute. These amendments will make the regulations consistent with changes already made to statute through SB 1126. This rulemaking will make the most recent program emergency regulations amendments permanent.

These regulations amendments will standardize terms used throughout the text with the changed statute. The amendments will also remove outdated language from prior amendments where the information outlined has already passed. These amendments are intended to improve the clarity of the regulations and make no substantive changes to the operating rules as established by statute and enacting regulations.

ECONOMIC IMPACT ANALYSIS

Program staff analyzed the economic impacts caused by a direct result of this rulemaking package. These regulations amendments do not materially change the duties or requirements of participating employers, accessibility for eligible employees or eligible individuals, or impact the following:

The creation or elimination of jobs within the state

These regulations are not expected to cause any incentives for innovation in the private sector that could create new jobs, nor are they expected to create any need to increase volume for existing jobs.

The creation of new businesses or the elimination of existing businesses within the state

Similar to the reasons stated in the paragraph above, these regulations amendments should have no impact on the creation of new businesses or the elimination of existing businesses within the state. These regulations amendments make no impact on whether or not existing businesses should be eliminated, nor do they give cause for the creation of new businesses.

The operation of the program in general may create incentives for retirement plan providers to create or market products in the state. The operation of the program in general may also create an incentive for payroll providers or third-party human resource vendors to create or market products within the state. However, these regulations do not include any material impacts that would bolster or lessen those incentives.

The expansion of businesses currently doing business within the state

These amendments are not expected to have any impact on the expansion of businesses currently doing business within the state. The operation of the program in general may create benefits for smaller employers to recruit and retain employees by providing them an easy, no-fee way to help their employees save for retirement. As noted above, the program in general may also create an

incentive for payroll providers or third-party human resource vendors to create or market products within the state. However, these regulations do not include any material impacts that would cause an expansion of those businesses.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment

These regulations amendments should have no effect on the health and welfare of California residents, worker safety or the state's environment. These regulations amendments improve the clarity of the regulations text by updating it to match a changed statute, by removing obsolete language, and by correcting typographical errors.

Overall Benefit of this Rulemaking:

Nearly half of California workers are on track to experience significant economic hardship in retirement age. Without the ease and simplicity of regular payroll contributions to a retirement savings account at work, many simply do not save for retirement. Research shows that people are 15 times more likely to save when they have access to a payroll deduction savings vehicle at work.

CalSavers ensures California workers have access to a retirement savings program at their job.

As more Californians join the workforce in the decades to come; the program will ensure the next generation of working Californians has the ability to begin saving for retirement throughout their careers. The Program is self-sustaining, funded by participant fees, with no direct cost to employers or taxpayers, and, over time, should provide a net benefit to taxpayers as fewer elder citizens will require taxpayer-funded public assistance.

The Program provides some indirect benefits for participating employers by providing a retirement savings option that is simple and requires no direct costs or annual reporting with no fiduciary liability. By having an easy way to provide a popular employee benefit, the Program should help smaller employers improve their value in the labor market and help to recruit and retain employees.

These regulations amendments will make no material impacts on the overall indirect benefits of the program, but will benefit employers by improving the clarity of the regulations through changes to definitions, removal of obsolete language, and eliminating repetitive language.

Evidence Supporting Finding of No Significant Statewide Adverse Economic Impact Directly Affecting Business:

Based on the Economic Impact Analysis stated above, CalSavers concludes that the proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including ability to compete with businesses in other states.

Reasonable Alternatives to the Regulations and the Agency's Reasons for Rejecting those Alternatives:

Alternative 1: Establish a later employer registration date than the December 31, 2025, deadline established in the bill, as allowed by the Board's regulatory power.

The Board declined the alternative because the deadline established by the bill allowed more than enough time for newly mandated employers to become compliant, based on previous employer registration deadlines for the CalSavers Program.

Alternative 1: Maintain the language in sections 10002, 10005, and 10006 that included outdated references to the April 8, 2021, date upon which the change to the default investment option and minimum contribution amount for non-recurring non-payroll contributions occurred.

The Board declined this alternative because maintaining the language could be confusing to anyone reading the regulations in the future, since the time frame has passed.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT ON WHICH THE AGENCY RELIES

The Board considered the findings from studies and reports to make decisions about the content of the proposed regulations, included below:

1. Allegretto, S.A., Rhee, N., et. al., (2011), [California Workers' Retirement Prospects](#) in N. Rhee's [Meeting California's Retirement Security Challenge](#), U.C. Berkeley Center for Labor Research and Education
2. Baki, M., Rhee, N., et. al., (2016), [Final Report to the California Secure Choice Retirement Savings Investment Board](#), Overture Financial LLC
3. Belbase, A. and Sanzenbacher, G., (December 2015) [Report on the Design of Connecticut's Retirement Security Program](#), Center for Retirement Research at Boston College
4. Beshears, J., Choi, J., et. al., (September 2010) [Defined Contributions Savings Plans in the Public Sector: Lessons from Behavioral Economics](#), National Bureau of Economic Research
5. Beshears, J., Benartzi, S. et. al., (October 7, 2017) [How Do Consumers Respond When Default Options Push the Envelope?](#), Voya Behavioral Finance Institute for Innovation
6. Beshears, J., Choi, J., et. al., (December 7, 2017) [Borrowing to Save? The Impact of Automatic Enrollment on Debt](#), Harvard University/Yale University/United States Military Academy
7. Choi, J., Laibson, D., et. al., (December 2001) [For Better or For Worse: Default Effects and 401\(k\) Savings Behavior](#), National Bureau of Economic Research
8. Dushi, I., Iams, H.M., Lichtenstein, J., (2015), [Retirement Plan Coverage by Firm Size: An Update](#), Social Security Administration Office of Retirement and Disability Policy
9. Helman, R., Greenwald, M., et. al., (April 2007) [The Retirement System in Transition: The 2007 Retirement Confidence Survey](#), Employee Benefit Research Institute
10. John, David, Gary Koenig, and Marissa Malta, (July 2022) "[National Retirement Plan Coverage \(Fact Sheet: California\)](#)," AARP
11. Madrian, B. and Shea, D., (May 2000) [The Power of Suggestion: Inertia in 401\(k\) Participation and Savings Behavior](#), National Bureau of Economic Research

12. McInerney, M., Rutledge, M. S., King, S. E., (October 2017), [How Much Does Out-of-Pocket Medical Spending Eat Away at Retirement Income?](#), Center for Retirement Research at Boston College
13. Munnell, A. H., Belbase, A., Sanzenbacher, G.T., (March 2018), [An Analysis of Retirement Models to Improve Portability and Coverage](#), Center for Retirement Research at Boston College in conjunction with Summit Consulting, LLC
14. Pew Charitable Trusts (January 2016), [Employer-based Retirement Plan Access and Participation across the 50 states \(California\)](#)
15. Pew Charitable Trusts, (June 2017), [Employer Barriers to and Motivations for Offering Retirement Benefits](#)
16. Pew Charitable Trusts, (July 2017) [Employer Reactions to Leading Retirement Policy Ideas](#)
17. Pew Charitable Trusts, (March 2018) [Auto-IRAs could help retirees boost Social Security Payments](#)
18. Scott, J., Blevins, A., et. al. (January 2016) [Who's in, who's out](#) *Pew Charitable Trusts*
19. Semega, J., and Welniak, Jr., E., (2015) [The Effects of the Changes to the Current Population Survey Annual Social and Economic Supplement on Estimates of Income](#), Proceedings of the 2015 Allied Social Science Association (ASSA) Research Conference
20. U.S. Government Accountability Office, (May 2016), [Low defined contribution savings may pose challenges](#)
21. [Investment Policy Statement adopted by the CalSavers Retirement Savings Board December 1, 2018, and Revised May 24, 2022](#)
22. Employee Benefit Research Institute and Greenwald & Associates, (2014), [2014 Retirement Confidence Survey Fact Sheet #6. PREPARING FOR RETIREMENT IN AMERICA](#)
23. Guzoto, T., Hines, M., and Shelton, A., (July 2022), [State Auto-IRAs Continue to Complement Private Market for Retirement Plans](#), *Pew Charitable Trusts*

#

STATEMENT OF NECESSITY

The section of the regulations proposed for amendment is identified below including a description of the objectives and necessity for the amendment.

Section 10000. Definitions, subsection (m)

Specific Purpose:

The definition of “Eligible Employer” establishes a term described in statute for categories of employers eligible for program participation.

Factual Basis:

This regulation amendment is necessary to reduce the amount of employees an employer may employ to be eligible for facilitation of the program to one in order to conform the regulations to statute.

Section 10000. Definitions, subsection (q)

Specific Purpose:

The definition for “Exempt Employer” defines a term described in statute for employers who are exempt from the mandate established in statute.

Factual Basis:

This regulation amendment is necessary to change the definition of exempt employers to conform to updated statute. The definition was changed to reduce the amount of employees an employer may have to be below the new minimum number of employees required to participate in the program. It also changes the definition to allow for the exemption of businesses with only owners as employees to match the language in the changed statute.

Section 10001. Eligible Employers, subsection (b)

Specific Purpose:

This regulation clarifies employer eligibility for employers who experience a change in their employee count that brings them outside of the regulation guidelines.

Factual Basis:

This regulation amendment is necessary to change the guidelines for what changes would cause an employer to cease being mandated to participate in the program. This change in definition is due to the state law being amended, so the amendment seeks to make program regulations align with the changed statute.

Section 10002. Employer Registration, subsection (a)(1)-(3)

Specific Purpose:

This regulation defines when Eligible Employers are mandated to register for the program based on how many Employees they employ.

Factual Basis:

This regulation amendment is necessary to more clearly refer to the definition of “Employee” established in Section 10000(p).

Section 10002. Employer Registration, subsection (a)(4)

Specific Purpose:

This regulation defines when Eligible Employers with fewer than five employees are mandated to register for the program based on how many Employees they employ.

Factual Basis:

This regulation amendment is necessary to add a new registration deadline for employers with four or fewer employees. This date was established through statutory changes, with the ability for the Board to leave it the same or choose a later date. The Board has no issues with the date as decided and has chosen to adopt the same date as statute.

Section 10005. Default Program Options and Alternative Elections for Contributions, Automatic Escalation, and Investment Options for Participants, subsection (a)(4)

Specific Purpose:

This regulation establishes how contributions are invested in the default investment option.

Factual Basis:

This regulations amendment is necessary to remove obsolete language.

Section 10005. Default Program Options and Alternative Elections for Contributions, Automatic Escalation, and Investment Options for Participants, subsection (b)(4)

Specific Purpose:

The purpose of this regulation is to establish the meaning of the term “non-recurring” non-payroll contributions and identify the minimum amount of those contributions.

Factual Basis:

This regulations amendment is necessary to remove obsolete language.

Section 10006. Individual Participation, subsection (a)

Specific Purpose:

This regulation establishes that individuals are able to enroll in the Program outside of an employment relationship with a participating employer.

Factual Basis:

This regulations amendment is necessary to more clearly refer to the definition of “Participating Individual” established in Section 10000(x).

Section 10006. Individual Participation, subsection (c)

Specific Purpose:

This regulation establishes that participating individuals may elect to make non-recurring contributions and establishes the minimum amount of non-recurring contributions.

Factual Basis:

This regulations amendment is necessary to remove obsolete language.